



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the eighth periodic report of New Zealand*

1. The Committee considered the eighth periodic report of New Zealand (CEDAW/C/NZL/8) at its 1616th and 1617th meetings (see CEDAW/C/SR.1616 and CEDAW/C/SR.1617), held on 12 July 2018. The Committee's list of issues and questions is contained in CEDAW/C/NZL/Q/8 and the responses of New Zealand are contained in CEDAW/C/NZL/Q/8/Add.1.

A. Introduction

2. The Committee appreciates the submission by the State party of its eighth periodic report. It also appreciates the State party's follow-up report (CEDAW/C/NZL/CO/7/Add.1) and its written replies to the list of issues and questions raised by the pre-sessional working group, as well as the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its high-level delegation, which was headed by the Parliamentary Under-Secretary to the Minister of Justice, Jan Logie, and included representatives of the Ministry for Women, Ministry of Justice, Te Puni Kokiri (Ministry of Maori Development) and the Permanent Mission of New Zealand to the United Nations Office and other international organizations in Geneva.

B. Positive aspects

4. The Committee notes the progress achieved since the consideration in 2012 of the State party's seventh periodic report (CEDAW/C/NZL/7) in undertaking legislative reforms, in particular the adoption of the following:

(a) Harmful Digital Communications Act 2015, which is aimed at preventing and mitigating harm caused to women through the use of digital communications and providing victims of harmful digital communications with means of redress;

(b) Vulnerable Children Act 2014, which enhanced protection for the well-being of vulnerable children and their mothers.

* Adopted by the Committee at its seventieth session (2–20 July 2018).



5. The Committee welcomes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, including the following:

(a) Establishment of the Parliamentary Under-Secretary to the Minister of Justice position in 2017, with the aim to design an integrated and responsive system to address family violence;

(b) Adoption of the National Pasifika disability plan, Faiva Ora 2016–2021, which ensures that Pasifika women and girls with disabilities and their family members are provided with enhanced effective support;

(c) Adoption of the Marriage (Definition of Marriage) Amendment Act 2013, which allows same-sex couples to legally marry;

(d) Launch of the Maori education strategy, Ka Hikitia: Accelerating Success 2013–2017, which is aimed at achieving equity and excellence in education for Maori students;

(e) Adoption of the second national plan of action on human rights, for the period 2015–2019;

(f) Launch of the new Integrated Safety Response approach, which is aimed at ensuring immediate safety for women and children who are victims of domestic violence.

6. The Committee welcomes the State party's accession to the Optional Protocol to the Convention on the Rights of Persons with Disabilities in the period since the consideration of the previous report.

Sustainable Development Goals

7. The Committee welcomes the international support for the Sustainable Development Goals and calls for the realization of de jure and de facto substantive gender equality, in accordance with the provisions of the Convention, throughout the process of implementing the 2030 Agenda for Sustainable Development. The Committee recalls the importance of Goal 5 and of the mainstreaming of the principles of equality and non-discrimination throughout all 17 Goals. It urges the State party to recognize women as the driving force of the sustainable development of the country and to adopt relevant policies and strategies to that effect.

C. Parliament

8. The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites Parliament, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the submission of the next periodic report.

D. Principal areas of concern and recommendations

Visibility of the Convention

9. The Committee notes that the Ministry for Women, the Ministry of Justice and the Ministry of Foreign Affairs and Trade have information on the Convention available on their websites, including the State party's periodic reports and the Committee's concluding observations thereon. The Committee further notes that both

the Institute of Judicial Studies and the New Zealand Law Society have provided training on national human rights legislation and international human rights instruments to members of the judiciary and to lawyers. However, the Committee notes that the Convention and the Optional Protocol have not been given the necessary visibility in the State party, as reflected by the absence of direct references to the Convention in judgments of the judiciary and the absence of communications concerning the State party submitted to the Committee by means of the complaints procedure under the Optional Protocol. The Committee is also concerned about the apparent lack of awareness among women of their rights under the Convention. It is further concerned about the insufficient level of support provided to civil society organizations engaging with the Committee and the decrease in the ongoing engagement of the State party with women's civil society organizations.

10. The Committee recommends that the State party:

(a) **Continue raising awareness among women of their rights under the Convention and of the procedures under the Optional Protocol, placing particular emphasis on the concept of substantive equality;**

(b) **Ensure that the Convention, the Committee's jurisprudence under the Optional Protocol, as well as its general recommendations, form part of mandatory training of members of the judiciary, law enforcement personnel, lawyers, social workers, medical personnel and other relevant professionals;**

(c) **Strengthen cooperation and partnerships by, inter alia, providing financial and other forms of support to civil society organizations assisting women.**

Definition of equality and non-discrimination

11. The Committee notes that under the New Zealand Bill of Rights Act 1990 (sect. 19 (1)) and the Human Rights Act 1993 (sect. 21 (1) (a)) sex-based discrimination in the public and private spheres, including indirect discrimination, is prohibited. However, the Committee is concerned that the State party's legislation on discrimination against women is not fully in line with articles 1 and 2 of the Convention. The Committee is also concerned that:

(a) Discrimination on the grounds of gender identity, gender expression or sex characteristics are not specifically prohibited;

(b) Submission of a statement concerning gender implications is only required for policy papers submitted to the Cabinet Social Wellbeing Committee and disclosure statements are not mandatory for all government bills and substantive supplementary order papers;

(c) Legislation adopted in the State party is generally gender-neutral, and gender-neutral language may fail to capture the specificity of gender-based discrimination, resulting in inadequate protection of women against direct and indirect discrimination and impeding the achievement of substantive equality between women and men.

12. Recalling its general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention and drawing the attention of the State party to target 5.1 of the Sustainable Development Goals, to end all forms of discrimination against all women and girls everywhere, the Committee recommends that the State party:

(a) **Amend section 21 (1) (a) of the Human Rights Act 1993, with a view to including specific prohibitions of discrimination on the grounds of gender identity, gender expression and sex characteristics;**

(b) Enact the legislation bill to ensure that disclosure statements become a binding requirement for all government bills and instruments and to ensure their compliance with international human rights standards;

(c) Include a gender-specific rather than gender-neutral approach in its legislation, policies and programmes, in line with paragraph 5 of the Committee's general recommendation No. 28.

Access to justice

13. The Committee remains concerned about the persistence of multiple barriers impeding women and girls from obtaining access to justice and effective remedies to claim violations of their rights, in particular for rural women, Maori, Pasifika, Asian, migrant and refugee women, women with disabilities, lesbian, bisexual and transgender women and intersex persons. In particular, it notes the following with concern:

(a) The decrease in availability of legal aid, as the number of legal aid lawyers has declined steadily since 2011;

(b) Limited legal literacy among women and limited access for women to information on available remedies, in particular among rural women and migrant women;

(c) The lack of gender sensitivity within the judiciary, in particular within the family courts, including negative attitudes among judges and law enforcement officials towards women claiming violations of their rights.

14. Recalling its general recommendation No. 33 (2015) on women's access to justice, the Committee recommends that the State party:

(a) Increase the availability of legal aid for women, in particular Maori and migrant women and women belonging to ethnic minority groups, including in civil and family courts;

(b) Disseminate information, in particular in rural and remote areas, about the legal remedies that are available to women whose rights have been violated;

(c) Strengthen gender responsiveness and gender sensitivity among members of the judiciary, including by increasing the number of women judges and strengthening systematic capacity-building on the Convention for judges, prosecutors, lawyers, police officers and other law enforcement officials.

Women and peace and security

15. The Committee welcomes the State party's launch in 2015 of its national action plan for the implementation of Security Council resolution 1325 (2000) on women and peace and security, for the period 2015–2019. The Committee further welcomes the fact that both the New Zealand Police and the New Zealand Defence Force have active programmes in place to increase the recruitment and retention of women and their promotion to senior positions, which will ultimately lead to more women being available for peacekeeping missions. Nevertheless, the Committee expresses concern about the lack of consultations with women's human rights organizations conducted during the process of drafting the national action plan and the lack of sufficient resources allocated to the national action plan.

16. The Committee recommends that the State party:

(a) Maintain its dedication to ensuring that the relevant provisions of Security Council resolution 1325 (2000) and subsequent resolutions on women

and peace and security are effectively implemented in countries affected by conflict, including by ensuring that its national action plan contributes to significantly increasing the participation of women in peace processes;

(b) Allocate sufficient resources for the implementation of its national action plan and enhance consultations with women's human rights organizations, in order to ensure promotion of the meaningful involvement of women at all stages of the women and peace and security agenda.

National machinery for the advancement of women

17. The Committee is concerned about the absence of a national action plan or strategy for the advancement of women, given that the previous one has not been renewed since 2009, and the complete lack of gender-responsive budgeting in the State party.

18. The Committee recommends that the State party:

(a) Adopt and adequately fund the implementation of a national action plan for the advancement of women and strengthen the role, efficiency and effectiveness of the Ministry for Women by allocating sufficient human, technical and financial resources to enable the Ministry to carry out its mandate to promote and protect women's rights;

(b) Introduce gender-responsive budgeting so as to ensure that a gender perspective is integrated into the legislation and policy development processes across all government agencies.

National human rights institution

19. The Committee notes the important work undertaken by the New Zealand Human Rights Commission. It is concerned, however, that in the past several years, the Commission has suffered continual decreases in financial, technical and human resources and that its mandate is currently limited by section 392 of the Immigration Act 2009, which prevents the Commission from accepting complaints from migrants.

20. The Committee reiterates its recommendation (CEDAW/C/NZL/CO/7, para. 16 (c)) that the State party provide the New Zealand Human Rights Commission with sufficient human, technical and financial resources to carry out its mandate to promote and protect women's rights. It further recommends that the State party repeal section 392 of the Immigration Act 2009 with a view to ensuring that the Commission is mandated to receive and process complaints from migrants, in line with the recommendations issued in 2016 by the Global Alliance of National Human Rights Institutions.

Temporary special measures

21. The Committee welcomes the State party's progress in reaching its goal to achieve gender parity in State-sector boards and committees, as well as the willingness of the State party's delegation to consider affirmative action as a tool to accelerate the realization of substantive equality between women and men, including in the private sector.

22. The Committee recalls its previous recommendation (CEDAW/C/NZL/CO/7, para. 20) and recommends that the State party consider the use of temporary special measures, in line with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (2004) on temporary special measures. It also recommends that the State party adopt and implement such temporary special measures as including quotas, in all areas in which women are under-represented

or disadvantaged, including in political life and in the labour market, as well as in the private sector, with specific, increased efforts made to achieve gender parity in the composition of State-sector boards and to establish a set goal for achieving gender parity on private-sector boards. The Committee further recommends that the State party raise public awareness of the non-discriminatory nature and importance of temporary special measures for the achievement of substantive equality between women and men.

Discriminatory stereotypes and harmful practices

23. While noting the efforts made by the State party to eliminate negative stereotypes affecting women, the Committee expresses concern about the following:

(a) The high persistence of cyberbullying in high schools, which disproportionately affects women and girls with disabilities and lesbian, bisexual, transgender and intersex students;

(b) The persistence of, and lack of reliable information on, entrenched harmful cultural norms and practices, including female genital mutilation, early and forced marriage, the use of dowry payments, polygamy and crimes in the name of so-called "honour";

(c) The conduct of medically unnecessary procedures on intersex infants and children before they reach an age at which they are able to provide their free, prior and informed consent, and the inadequate provision of support and counselling for the families of intersex children and of remedies for victims.

24. The Committee recommends that the State party adopt a comprehensive strategy to eliminate discriminatory stereotypes regarding the roles and responsibilities of women and men in the family and society, in cooperation with civil society organizations, in particular women's groups, community leaders, teachers and the media, in order to create an enabling environment that is supportive of gender equality. It further recommends that the State party:

(a) Systematically collect data on harmful practices, including cyberbullying targeting adolescent girls, and implement measures, such as awareness-raising campaigns in schools, to prevent such practices;

(b) Continue to combat harmful practices, in particular female genital mutilation, early and forced marriages, the use of dowry payments, polygamy and crimes in the name of so-called "honour", and systematically collect data disaggregated by age and ethnicity on those harmful practices;

(c) Adopt clear legislative provisions explicitly prohibiting the performance of unnecessary surgical or other medical treatment on intersex children before they reach the legal age of consent, provide the families of intersex children with adequate counselling and support and provide redress to intersex persons who have undergone such unnecessary surgical or medical treatment.

Gender-based violence against women

25. The Committee notes that the bill on family and Whanau violence legislation is currently before Parliament and that a bill on workplace protection for victims is expected to be adopted soon. It welcomes the establishment of the new position of Parliamentary Under-Secretary to the Minister of Justice (Domestic and Sexual Violence Issues) and of an advisory board on ways to invest in family violence prevention with a mandate to review existing programmes, as well as the recently increased funding for front-line support services. However, the Committee is

concerned about the absence of a national action plan or comprehensive strategy for the prevention and elimination of gender-based violence, which is aggravated by the lack of continuity in governmental policies over time. It also remains concerned about the following:

(a) The alarmingly high level of gender-based violence against women in the State party, with one in three women being subjected to physical or psychological violence, by an intimate partner during the course of their lifetime, especially domestic and sexual violence, including rape, which disproportionately affects Maori women, women belonging to ethnic minority groups, transgender women and women with disabilities, who are more likely to be retraumatized under the State party's current system;

(b) The very low levels of reporting and the high rate of recidivism, particularly within the Maori community, with only 20 per cent of family violence and only 9 per cent of sexual violence reported to the police;

(c) The growing usage of the gender-blind term "family harm", which obscures the aspect of domestic violence as being a violation of women's rights and minimizes the severity of the gender-based nature of such violence by the police as well as social welfare personnel and the judiciary;

(d) The allocation of resources mostly to treatment and rehabilitation, with little emphasis on prevention;

(e) The absence of systematic specialized capacity-building programmes on the strict application of legal provisions on gender-based violence and on gender-sensitive investigation methods for judges, law enforcement officials and social welfare personnel;

(f) The lack of a single integrated data source encompassing all data regarding domestic violence, disaggregated by sex, ethnicity, type of violence and the relationship of the perpetrator to the victim, including data on femicide, and the lack of sufficient funding for data-collecting agencies, including non-governmental agencies;

(g) The lack of an adequate, culturally sensitive approach, resulting in cultural and linguistic barriers, and the distrust in public authorities, which prevents Maori women and girls and women and girls belonging to ethnic minority groups from seeking protection from domestic and sexual violence and from seeking redress;

(h) The lack of connection and coordination between police safety orders and court protection orders;

(i) The fact that, despite a reported decrease in "no crime" files, no subsequent increase in court cases has been observed;

(j) The heightened vulnerability of women with disabilities to violence perpetrated by caregivers.

26. Taking into account its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, and recalling target 5.2 of the Sustainable Development Goals, on the elimination of all forms of violence against all women and girls in the public and private spheres, the Committee recommends that the State party, with a view to strengthening its efforts to eliminate gender-based violence against women and its underlying causes:

(a) **Adopt a comprehensive and cross-party on combating gender-based violence against women in accordance with general recommendation No. 35 and ensure its consistent implementation, including by strictly applying the**

provisions of the bill on family and Whanau violence legislation, once adopted, and by, inter alia, including measures that specifically protect women with disabilities who are victims of abusive caregivers;

(b) Conduct public awareness-raising programmes in collaboration with teachers and the media, including social media, to promote understanding of the criminal nature of gender-based violence against women and to encourage victims and witnesses to report violence;

(c) Strengthen capacity-building and awareness-raising campaigns and training for judges, law enforcement officials and social welfare personnel on all forms of gender-based violence and abuse and the specific protection needs of migrant women, with a view to ensuring that victims are, under no circumstances, forced or put under pressure to accept mediation or alternative dispute resolution methods in lieu of criminal proceedings against perpetrators;

(d) Allocate resources aimed at developing a comprehensive prevention strategy for gender-based violence against women;

(e) Adopt criteria and guidelines for the provision of victim-oriented and culturally appropriate legal, psychosocial and economic assistance that recognize the special needs of Maori women and girls and women and girls belonging to ethnic minority groups, while ensuring that efforts to ensure cultural sensitivity are not undertaken at the expense of the State party's obligations under the Convention;

(f) Collect and report to the Committee data disaggregated by age, type of violence and relationship of the perpetrator to the victim on the number of cases of violence against women that have been investigated and the number of those that have led to prosecutions, including information on the sanctions imposed on perpetrators, the number of women who have been victims of violence who have been provided with legal assistance and relevant support services and the number of such women who have received redress, including in the form of monetary compensation;

(g) Ensure effective coordination and collaboration among the entities responsible for combating gender-based violence;

(h) Consider renewing its invitation to the Special Rapporteur on violence against women, its causes and consequences;

(i) Ensure that the bill on family and Whanau violence legislation protects women with disabilities from violence committed by caregivers.

Trafficking and exploitation of prostitution

27. The Committee commends the State party for the adoption of the Organised Crime and Anti-Corruption Act 2014 amending the Crimes Act 1961 to include a broader definition of trafficking, including internal trafficking and trafficking for purposes of forced labour. It further notes the establishment of an inter-agency working group to combat trafficking and develop joint strategies. However, the Committee notes the following with concern:

(a) That section 19 of the Prostitution Reform Act 2003 may have a negative impact on migrant women;

(b) That migrant women engaged in prostitution may be exposed to exploitation and are at risk of trafficking, owing to the ban on engaging in prostitution imposed on migrants, which prevents them from reporting abuse for fear of deportation;

(c) The minimal level of prosecutions and convictions and of the sentences imposed on traffickers, possibly stemming from a high threshold of proof and demanding nature of proceedings;

(d) The absence of a national action plan on trafficking, despite the statement made by a member of the delegation of the State party about a project to update the 2009 Plan of Action to Prevent People Trafficking, and the lack of coordination among relevant State agencies;

(e) That the Crimes Amendment Act 2015 does not make an exception to the requirement that trafficking involve one or more acts of coercion or deception for cases of trafficking in children;

(f) The deficiencies in the early identification of victims of trafficking and their referral to the appropriate services and the lack of specialized shelters in the State party, in particular in rural areas.

28. The Committee recommends that the State party:

(a) **Amend section 19 of the Prostitution Reform Act 2003, with a view to reducing its negative impact on migrant women;**

(b) **Revise migration laws, remove the possibility of only a fine being imposed as punishment for trafficking and adopt measures aimed at preventing discrimination against women in prostitution in the State party, with a view to preventing and addressing the factors and structures that render migrant women vulnerable to trafficking;**

(c) **Strengthen mechanisms to identify, protect and assist victims of trafficking and sexual exploitation, provide them with legal support and systematically collect comprehensive data about victims of trafficking and report them to the Committee in its next periodic report;**

(d) **Speedily adopt a new national action plan to combat human trafficking, in line with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;**

(e) **Revise the Crimes Amendment Act 2015 to criminalize trafficking in children even when no coercion, deception or other means of abuse of power are involved;**

(f) **Ensure that victims of trafficking are provided with adequate protection and support, including by establishing separate, well-equipped shelters with trained staff to address their specific needs and concerns and strengthen long-term reintegration measures for victims of trafficking.**

Participation in political and public life

29. The Committee notes the increase in the representation of women in Parliament and the appointment in 2017 of the third female Prime Minister of New Zealand. It also notes that, following the 2017 general election, women accounted for 38 per cent of members of Parliament, including Maori women parliamentarians and women parliamentarians belonging to ethnic minority groups. Nevertheless, the Committee is concerned about the low levels of representation of women in leadership roles at other levels and in other sectors: only 19 per cent of directors of companies listed on the New Zealand Stock Exchange Main Board are women and 56 per cent of businesses have no women in senior roles.

30. The Committee recommends that the State party adopt and implement temporary special measures, including time-bound goals, quotas or preferential

treatment, to accelerate the equal representation of women in decision-making positions in all areas and at all levels, both in the public and private sectors.

Education

31. The Committee commends the State party for its efforts aimed at increasing opportunities for women in the fields of science, technology, engineering and mathematics and in information and communications technology (ICT) industries, in particular the fact that education and careers in science, technology, engineering and mathematics have been promoted among secondary school students, in particular among Pacific islanders, and the fact that in 2014 the State party allocated \$28.6 million over four years for an ICT graduate school programme aimed at increasing diversity among ICT students. However, the Committee is concerned about the following:

- (a) The limited access to secondary and tertiary education for many girls and women living in rural areas;
- (b) The lack of inclusion in school curricula of comprehensive, culturally sensitive and age-appropriate sexuality education or education on harmful practices and gender-based violence against women and girls, which further exacerbates the high rates of sexual violence and early pregnancy, and the lack of sexuality education that specifically addresses the needs of Maori young people and communities;
- (c) The increasing rate of girls who drop out of school, including as a result of teenage pregnancy;
- (d) The lack of data, disaggregated by sex, ethnicity and disability, on enrolment at all levels, in particular in higher education, and on dropout rates and the reasons for them;
- (e) The fact that women and girls are concentrated in traditionally female-dominated fields of study and under-represented in science and technology;
- (f) The increasing impediments to the education of girls living in rural areas due to growing transportation costs, the closing of rural schools, the reduction in government financing for community education services and the information barrier regarding the obligation to pay so-called "voluntary donations" to schools.

32. **Recalling its general recommendation No. 36 (2017) on the right of girls and women to education, the Committee recommends that the State party take the legislative and policy action and allocate adequate resources necessary to:**

- (a) **Facilitate access to secondary and tertiary education for girls and women living in rural areas, including through increased resources;**
- (b) **Ensure the inclusion in school curricula of mandatory, culturally sensitive and age-appropriate education on sexual and reproductive health and rights and responsible sexual behaviour, focusing on the prevention and consequences of early pregnancy and sexually transmitted infections;**
- (c) **Provide girls with a safe educational environment free from discrimination and sexual violence and include education on non-violence in the curricula;**
- (d) **Strengthen the efforts aimed at ensuring that no pressure is placed on pregnant teenage girls to leave school or change courses and establish a reintegration policy for teenage mothers, while safeguarding against the risk of having teen pregnancy and motherhood perceived as a norm;**

(e) Continue eliminating stereotypes and structural barriers that may deter girls from enrolling in traditionally male-dominated fields of study, provide girls with career counselling, scholarships and other incentives to orient them to science and technology subjects, including meteorological studies, disaster risk reduction and climate change, and ensure that stereotypes are addressed in the teacher-training curriculum;

(f) Address all impediments to the education of girls living in rural areas, including financial and transportation-related obstacles.

Employment

33. The Committee welcomes the adoption by the State party of the gender pay principles. It further commends the State party on the \$2 billion pay equity settlement for the 55,000 care and support workers in the State party's aged and disability residential care, home and community support services and for reconvening the joint working group on pay equity principles. However, the Committee notes the following with concern:

(a) The persistent discrimination against Maori and Pasifika women and women with disabilities in the labour market;

(b) The high unemployment rate among women under 25 years of age;

(c) The persistent gender pay gap, which disproportionately affects women in low-income jobs, including Maori and Pasifika women and women belonging to other ethnic and cultural minority groups;

(d) Occupational segregation with concomitant wage differentials and the concentration of women in unpaid work or in lower paying jobs in the informal economy;

(e) Decreased funding for childcare facilities and services, which impedes women from participating equally in the workforce and also leads to loss of jobs for women.

34. The Committee recommends that the State party adopt and implement policies, with time-bound targets and indicators, to increase employment opportunities for women in the formal sector, eliminate occupational segregation and achieve substantive equality between women and men in the labour market. It also recommends that the State party:

(a) Urgently address the working conditions of Maori and Pasifika women, women with disabilities and young women in all areas of employment including through data collection and analysis;

(b) Consider adopting a new law based on the recommendations of the reconvened Joint Working Group on Pay Equity Principles, with a view to applying it to both the public and private sectors;

(c) Adopt and enforce the principle of equal pay for work of equal value in a revised employment relations legislation covering both public and private workplaces, including through analytical job classification and evaluation methods and regular pay surveys, and regularly review wages in sectors in which women are concentrated;

(d) Adopt temporary special measures to address occupational segregation and ensure that women and men have equal opportunities for promotion;

(e) Ensure adequate funding for childcare facilities and services.

Sexual harassment in the workplace

35. The Committee is concerned about sexual harassment and various forms of sexual assault in the workplace and the severe under-reporting of such incidents. It notes, with concern the high number of cases of sexual harassment and bullying in the workplace, in particular within the police, the defence force, the legal professions and the health sector. In that regard, the Committee notes that, in 2017, the New Zealand Human Rights Commission received 1,577 complaints of unlawful discrimination, 123 of which involved allegations of sexual harassment, which is a 43 per cent increase in sexual harassment complaints compared with the previous 10 years.

36. The Committee draws the State party's attention to the fact that sexual harassment in the workplace is a criminal offence and has a discriminatory impact, often affecting victims in terms of wages, promotion or dismissal and creating a hostile work environment, which in turn obstructs the ability of victims to fulfil their professional potential. It recommends that the State party:

- (a) Examine the organizational culture in workplaces in order to address the root causes of sexual harassment and assault;
- (b) Ensure that all workplaces have a sexual harassment policy and a clear process in place for victims;
- (c) Disseminate information on available reporting procedures and ensure that complaints of sexual harassment and bullying in the workplace are investigated and perpetrators brought to justice.

Economic and social benefits and economic empowerment of women

37. The Committee notes with concern that, given the gender-neutral approach used in the Social Security Act 1964, certain provisions may expose women to discrimination. It is also concerned about the lack of measures taken by the State party to fulfil its extraterritorial obligations with regard to tax avoidance, tax abuse and exploitation of weak economies in developing countries, which further reduces the resources available in those countries to advance women's rights and gender equality.

38. The Committee recommends that the State party:

- (a) Amend the Social Security Act 1964 to fully align it with the State party's obligations under the Convention;
- (b) Increase tax collection and improve revenue administration, with a view to increasing social expenditure;
- (c) Take measures to reduce poverty and improve the economic empowerment of women, in particular women living in rural areas, Maori, Pasifika, Asian, immigrant, migrant and refugee women and women with disabilities;
- (d) In line with the Committee's general recommendation No. 28, undertake independent, participatory and periodic impact assessments of the extraterritorial effects of its financial and corporate tax policies on women's rights and substantive equality, ensuring that the assessments are conducted impartially and that the methodology and findings are communicated to the public.

Health

39. The Committee welcomes the request of the Minister of Justice to the Law Commission to provide advice on the legislative changes necessary to treat abortion

as a health issue and the Commission's upcoming report regarding the decriminalization of abortion and its incorporation into health-care regulations. However, the Committee remains concerned that:

(a) Currently the Crimes Act 1961 contains restrictive grounds for lawful abortion, in which rape and sexual violence are not included, and the Contraception, Sterilisation and Abortion Act 1977 requires the approval of two certifying consultants prior to the administration of abortion, thus further impeding the accessibility of the service and creating unnecessary delays;

(b) Under the new childcare alert system of the Ministry of Health, unborn foetuses are included in the definition of "child", which has resulted in foetal protection measures, such as court decisions granting special protection to a foetus, and such measures may undermine the bodily autonomy and reproductive health rights of pregnant women;

(c) The number of qualified midwives is decreasing, primarily in remote and rural areas;

(d) The mental health services for women, including addiction treatments, targeting primarily Maori women and women with disabilities, are inadequate.

40. The Committee recalls its statement on sexual and reproductive health and rights, adopted at its fifty-seventh session, and recommends that the State party:

(a) Remove abortion from the Crimes Act 1961 and amend the Contraception, Sterilisation and Abortion Act 1977 in order to fully decriminalize abortion and incorporate the treatment of abortion into health services legislation;

(b) Ensure that abortion is legalized, at least in cases of rape, incest, threats to the life or health of the pregnant woman or severe foetal impairment, and ensure access for women to safe abortion and post-abortion care and services;

(c) Take the steps necessary to ensure that there is a sufficient number of midwives to provide appropriate health-care services to women during pregnancy, birth and the postnatal period and to their children, in particular in remote and rural areas;

(d) Take the steps necessary to improve the availability and quality of accessible mental health-care services, including addiction treatments, targeting primarily Maori women and women with disabilities.

Rural women

41. The Committee notes the steps taken by the State party to improve situation of women living in rural areas, as well as the development of its national climate change adaptation plan. It notes with concern, however, that:

(a) Women living in rural areas are exposed to high levels of poverty and gender-based violence;

(b) Women living in rural areas bear an unequal burden of family responsibilities and traditional attitudes compel them to perform unpaid work and provide food for their families;

(c) There are inadequate broadband and Internet services in rural areas, creating significant additional barriers to access to information and services for women;

(d) Climate change has a disproportionate impact on women in the State party, and there is a lack of information on the participation of women in decision-making on policies and programmes concerning rural development.

42. The Committee refers to its general recommendation No. 34 (2016) on the rights of rural women and recommends that the State party:

(a) Take measures aimed at improving the living conditions of women in rural areas, including by alleviating poverty and eliminating gender-based violence;

(b) Ensure that women in rural areas are offered alternatives to unpaid work;

(c) Ensure expanded use of modern technologies and adequate broadband internet services in rural areas;

(d) Take into account the greater vulnerability of women in the face of natural disasters and climate change at all decision-making levels of the adaptation process.

Maori women and women belonging to ethnic minority groups

43. The Committee notes with concern that Maori women and women belonging to ethnic minority groups in the State party are exposed to intersecting forms of discrimination, particularly in gaining access to health-care services and protecting their right to land ownership. While noting measures taken by the State party to address the situation of Maori women, the Committee is concerned that Maori women continue to be disproportionately affected by incarceration and that 65 per cent of female inmates are Maori.

44. The Committee recommends that the State party adopt all legislation, including temporary special measures and awareness-raising measures, necessary to combat intersecting forms of discrimination against women, particularly in gaining access to health-care services and protecting their right to land ownership. The Committee further recommends that the State party implement the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and provide alternatives to detention to reduce the high number of Maori women detainees.

Migrant women

45. The Committee is concerned that:

(a) Some migrant women who have children and do not hold permanent visas can lose their partners' sponsorship as a consequence of separation or divorce; in some cases they are returned to their country of origin, leaving their children behind with fathers, even in cases where there is known or reported abuse;

(b) Women may remain in abusive relationships so as not to lose their visa status, which is dependent on the status of the perpetrator;

(c) Women in such situations face particular obstacles to access to justice for a variety of reasons relating to lack of knowledge and language barriers, as well as lack of legal aid.

46. The Committee recommends that the State party:

(a) Revise its immigration laws, with a view to facilitating access to permanent residency permits for mothers of children who hold New Zealand nationality;

(b) **Ensure the availability of shelters for migrant women who are victims of violence, including domestic violence, and provide them with free legal and psychological counselling, rehabilitation and other support services;**

(c) **Create adequate conditions for women migrants to lodge complaints, including by ensuring that they are properly informed of their rights, and available remedies, including how to lodge complaints of violations of those rights, including in a language that they can understand.**

Marriage and family relations

47. The Committee notes the enactment of the Marriage (Definition of Marriage) Amendment Act 2013, which enables adult couples of any gender to marry, including same-sex and different sex couples. However, the Committee is concerned about the apparent crisis within the family court system, reflected in the mistreatment of women, in particular women who are victims of domestic violence. While welcoming the upcoming review of the family court system announced by the Minister of Justice, the Committee is concerned that the review will be focused on the 2014 reforms alone and will not examine the root causes of the systemic lack of trust of and insensitivity towards women who are victims of domestic violence, which are apparently entrenched in the family court system. In particular, the Committee is concerned that:

(a) Risk assessment is being performed in only a few of the cases in which a woman has reported violence, as a result of the removal of the Bristol clause during the 2014 reforms;

(b) Mandatory mediation and joint partner courses are implemented even in situations of domestic violence, including when protection orders are in place, thus exposing the female victim to heightened risk;

(c) There are no particular provisions for courts to consider domestic violence, directed at a mother or a child, when deciding on child custody, and judges reportedly recommend shared physical custody, even in cases in which fathers are abusive to the children or their mothers;

(d) Courts, lawyers for children and social workers routinely resort to the parental alienation syndrome theory, despite the fact that it has been refuted internationally;

(e) Girls between 16 and 18 years of age can marry with parental consent.

48. **The Committee reiterates its previous recommendations that the State party:**

(a) **Establish a royal commission of inquiry with an independent mandate to engage in wide-ranging evaluation of the drawbacks for women, the obstruction of justice for women and the hindrances to their safety inherent in the family court system and to recommend the legislative and structural changes necessary to make the family courts safe and just for women and children, in particular in situations of domestic violence;**

(b) **Take all measures, including through legislation and policy guidelines, in line with general recommendation No. 35, necessary to reinstate the Bristol clause and to ensure that women who are victims of domestic violence are not forced to participate in out-of-court solutions, such as mandated mediation;**

(c) **Take all measures, including through legislation and policy guidelines, necessary to ensure that domestic violence, directed at a child or mother, is properly considered in child custody disputes, in particular when shared physical**

custody is being contemplated, and investigate the outcomes of shared physical custody on the development and welfare of children;

(d) Review the reliance on the parental alienation syndrome theory, with a view to limiting its usage in child custody disputes;

(e) Expedite the adoption of the bill on amending court consent to marriage of minors so as to completely preclude parental consent as a sufficient requirement to allow marriage below the age of 18, and to allow court approval only under exceptional circumstances for marriages involving those between 16 and 18 years of age.

Data collection and analysis

49. The Committee is concerned about the deficiencies in compiling, analysing and processing reliable statistical data on the situation of women in all areas covered by the Convention, including intersections between women belonging to more than one group.

50. The Committee recommends that the State party set up a centralized system for the collection, analysis and dissemination of comprehensive data, disaggregated by sex, age, disability, ethnicity, location, gender identity and sexual orientation and socioeconomic status, while maintaining the confidentiality thereof, and that it use measurable indicators to assess trends in the situation of women and progress towards the realization of substantive equality in all areas covered by the Convention.

Beijing Declaration and Platform for Action

51. The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.

Dissemination

52. The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official languages of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, Parliament and the judiciary, to enable their full implementation.

Technical assistance

53. The Committee recommends that the State party link the implementation of the Convention to its development efforts and that it avail itself of regional or international technical assistance in this respect.

Ratification of other treaties

54. The Committee notes that the adherence of the State party to the nine major international human rights instruments¹ would enhance the enjoyment by

¹ The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance, to which it is not yet a party.

Follow-up to the concluding observations

55. The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 20, 26 (a), 40 (a) and 48 (a) above.

Preparation of the next report

56. The Committee requests the State party to submit its ninth periodic report, which is due in July 2022. The report should be submitted on time and cover the entire period up to the time of its submission.

57. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I).